



DEPARTMENT OF THE TREASURY OFFICE OF PUBLIC AFFAIRS

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Treasury and IRS Issue Final Regulations on Student Exception from Employment Taxes

WASHINGTON, DC -- Today, the Department of the Treasury and Internal Revenue Service issued final regulations on the exception from employment taxes for services provided by students when those services are performed for a school, college or university. The regulations were issued earlier this year in proposed form and a hearing was held on June 16.

Although wages paid to students for working for a school, college or university are subject to income tax, a special exception excludes the wages for such services from FICA and FUTA taxes if certain requirements are met. Questions have arisen regarding whether the exception is available in situations where the employment aspects of the student worker's relationship to the school, college or university predominate, especially in the case of medical residents receiving training in connection with the provision of health care services. These regulations address those questions.

The final regulations provide standards for determining whether an employer qualifies as a school, college, or university, and whether an employee is a student for purposes of exception from employment taxes. The final regulations also provide that full-time employees are not students for purposes of the exception, and outline relevant factors to be taken into account in determining if the exception applies to the services provided by other employees.

In addition to the final regulations, the Treasury and the IRS are issuing a revenue procedure providing a safe harbor for the student FICA exception. The revenue procedure replaces Rev. Proc. 98-16, 1998-1 C.B. 403; the new revenue procedure modifies the Rev. Proc. 98-16 safe harbor standards to be consistent with the final regulations.

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